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JOINT APPLICATION OF ONCOR	§	BEFORE THE
ELECTRIC DELIVERY COMPANY	§	
LLC, AEP TEXAS INC., AND LCRA	§	PUBLIC UTILITY COMMISSION
TRANSMISSION SERVICES	§	
CORPORATION TO AMEND THEIR	§	OF
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY FOR 345-KV	§	TEXAS
TRANSMISSION LINES IN PECOS,	§	
REEVES, AND WARD COUNTIES,	§	
TEXAS (SAND LAKE TO SOLSTICE	§	
AND BAKERSFIELD TO SOLSTICE)	§	

**PLAINS MARKETING, L.P. AND PLAINS PIPELINE, L.P.'S
REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

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PLAINS PIPELINE, L.P.**

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**PLAINS MARKETING, L.P. AND PLAINS PIPELINE, L.P.'S
REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

Intervenors Plains Marketing, L.P. and Plains Pipeline, L.P. ("Plains") file this Reply in response to the Exceptions to the Proposal for Decision ("PFD") filed by the parties to this proceeding. Plains requests approval of one of the supported routes utilizing links B2-B3, with link B2 modified as set forth in the PFD—either Route 320 or 325 (as modified to the extent possible per the requests of oil and gas developers in this proceeding)—and respectfully shows as follows.

I. REPLY TO STAFF'S EXCEPTIONS

A. The PFD Properly Considers All Community Values, Including that this Rural West Texas Community Values Oil and Gas Development.

In its exceptions, Staff characterizes Route 320 (links B2-B3) and Route 41 (links B1-C3) as "identical" as to the factor of community values.¹ That characterization is not accurate. Rather, as the PFD concludes, Route 320 (links B2-B3) better meets community values, because it adheres to this rural west Texas community's value of avoiding impacts to oil and gas related facilities, including pipelines. As the PFD summarizes, "the primary landowner concerns raised

¹ Commission Staff's Exceptions to the Proposal for Decision at 4.

through testimony and examination at the hearing focused on the effects of the Project on oil and gas production.”² Consideration of the entirety of the record evidence as a whole as done in the PFD—and as briefed by Plains, Concho, and Oxy—shows that of the two competing departures, B2-B3 (used in Route 320 and Route 325) minimizes impacts to oil and gas related facilities, including Plains’ pipelines, and better meets the community’s values.³ Staff’s supported Route 41 (links B1-C3) crosses Plains’ pipelines and conflicts with this community value of oil and gas development, and Staff’s exceptions ignore this value and conflict.⁴

The PFD’s community values analysis “weigh[s] all community values and evidence in the record,” including the important community value of oil and gas development, and concludes that “community values considerations favor Route 320.”⁵ The PFD’s conclusion is correct, and should remain unaltered in substance and principle. Plains continues to support other modifications on Route 320 or Route 325 that may be proposed by Concho and Oxy, as those modifications also support the values expressed by the community of avoiding interference with oil and gas development.

B. Staff’s Position on Moderation of Impacts Considers Only Some Landowners. The PFD Properly Considers All Landowners.

In its exceptions, Staff urges that Route 41 (links B1-C3) better moderates impacts on landowners, instead of Route 320 (links B2-B3) as concluded in the PFD.⁶ However, Staff selectively focuses on moderation of impacts to landowners and occupants who did not intervene

² Proposal for Decision (“PFD”) at 23.

³ See PURA § 37.056(c)(4)(A); 16 TAC § 25.101(b)(3)(B); Plains Initial Br. at 16-19; Concho Initial Br. at 14-15; Oxy Initial Br. at 5-8.

⁴ See Commission Staff’s Exceptions to the Proposal for Decision at 4.

⁵ PFD at 22-25.

⁶ Commission Staff’s Exceptions to the Proposal for Decision at 5.

in this case—and ignores moderation of specific negative impacts to intervenor Plains' property and pipelines.⁷ These negative impacts on the Plains property are well-evidenced and drastic. Record evidence shows that links B1-C3 of Route 41 would fracture the east side of Plains' property into multiple transmission line encircled pockets, require multiple crossings of existing transmission lines that already burden the Plains property, and require multiple crossings of and parallel Plains' existing crude oil pipelines.⁸ Plains' pipelines converge at a central facility and trucking station located in the northeast corner of Plains' property.⁹ Given the existing hub facility and pipeline design, the east side of Plains' property is the location where further development of transportation facilities supporting the oil and gas related development in the area will naturally occur. Thus, Route 41 does not merely fracture Plains' property and interfere with Plains' existing facilities, but does so at a location that unduly restricts the ability of Plains to expand its facilities to serve this community.¹⁰ In contrast, although Route 320 (links B2-B3) still crosses Plains' property and locates more line on Plains' property, it moderates these negative impacts.¹¹ Staff's exceptions, like Staff's testimony, do not consider or address the negative impacts to the Plains property or other engineering constraints associated with links B1-C3.¹²

⁷ See Commission Staff's Exceptions to the Proposal for Decision at 5.

⁸ See Intervenor Map, Oncor/AEP Ex. 10A; Tr. at 55:5-56:23 (Peppard Cross) (describing the pockets); *see also* Plains Initial Br. at 6-10.

⁹ See Oncor/AEP Ex. 10A.

¹⁰ See *id.*; *see also* Application, Oncor/AEP Ex. 1, Attach. 1 (App. G) at Fig. 3-1 A (environmental constraints map that more clearly shows the existing central facility); Tr. at 55:5-56:23 (Peppard Cross).

¹¹ See Oncor/AEP Ex. 10A; *see also* Plains Initial Br. at 9-10.

¹² See Commission Staff's Exceptions to the Proposal for Decision at 5.

In contrast, the PFD appropriately considers all affected landowners and engineering impacts.¹³ Considering and balancing competing landowner concerns, the ALJs conclude that “[t]aking into account the adverse effect that Route 41 would have on Plains Pipeline, the greater benefits of Route 320, and the fact that the great majority of the habitable structures that are on Route 320 are mobile home “man camps” . . . the benefits and attributes of Route 320 outweigh those of Route 41.”¹⁴ The PFD’s conclusion is holistic and well-reasoned, and should remain unchanged.¹⁵

C. Staff’s Count-Only Position as to Prudent Avoidance Was Properly Rejected.

In its exceptions, Staff continues to assert that the 34 wheeled travel trailers that happened to be located across the road from link B2 on the date of the Applicants’ aerial survey must be counted as habitable structures, and further, that their intended mobility and temporary nature should not be considered in the prudent avoidance assessment.¹⁶ Staff’s arguments are flawed on multiple grounds and must be rejected.

First, Staff incorrectly assumes that these wheeled travel trailers are habitable structures.¹⁷ As correctly summarized by the ALJs, these mobile living units “appear to have no permanent foundation,” and 32 units are “of the travel trailer style.”¹⁸ These units are referred to as “man camps,” which are temporary living or office quarters for oil and gas field personnel.¹⁹

¹³ PFD at 32.

¹⁴ *Id.*

¹⁵ *See id.*

¹⁶ *See* Commission Staff’s Exceptions to the Proposal for Decision at 6.

¹⁷ *See id.*

¹⁸ PFD at 33-34 (citing Oncor/AEP Ex. 1, Attachment 12).

¹⁹ PFD at 34 (citing Tr. at 64-65 (Perkins Cross) (February 21, 2019): “[T]hey have wheels on them, they have hitchers, there’s no utilities running to the units. So they are very temporary in nature. . . . [W]e go out a couple of weeks later and there might be – in this one instance, there was a third less [of the structures] at the time.” *See also* Oncor/AEP Ex. 7 (Perkins Direct) at Exhibit BJP-6).

It is unknown whether the temporary, wheeled units remain at the same location today.²⁰

Although there has not yet been any definitive ruling on whether “mobile living units” in west Texas oil and gas fields like these must be considered as habitable structures, past precedent supports that the answer is no.²¹

The term “habitable structures” is defined in the Commission’s rules as “[s]tructures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis,” and “include, but are not limited to: single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.”²² The Commission’s definition encompasses mobile homes.²³ However, recreational vehicles (RVs), especially ones with indefinite and unfixed locations, or that can be easily moved away from the proposed line, do not appear to be encompassed, and such RVs have been assigned little to no weight in past routing precedent.²⁴

Contrary to the assertions in Staff’s exceptions, the wheeled travel trailers at issue here do not support a conclusion that Route 41 (links B1-C3) better meets the standard of prudent avoidance than routes that use links B2-B3, like Route 320 or 325. As reasoned by the ALJs, “[t]hese are not permanent mobile home developments or, for the most part, structures that serve

²⁰ Tr. at 64-65 (Perkins Cross).

²¹ See, e.g., *Application of LCRA TSC Transmission Services Corporation to Amend its Certificate of Convenience and Necessity for the Proposed Cushman to Highway 123 138-kV Transmission Line in Guadalupe County*, Docket No. 39479, PFD at 25 (May 21, 2012) (the ALJ noting that link F of the proposed is routed along the property line of an RV park that presumably has customers residing on the property, but reasoning that “there is no evidence there are long term residents, and the ALJ does not find a quantifiable impact when considering the Commissioner’s prudent avoidance policy”); Docket No. 39479, Order at 21 (June 20, 2012) (adopting Finding of Fact No. 106 and use of link F).

²² 16 TAC § 25.101(a)(3).

²³ *Id.*

²⁴ See, e.g., Docket No. 39479, PFD at 25.

as family dwelling units or weekend cabins.”²⁵ Instead, these visibly wheeled units can “easily be moved to other areas in the production fields if exposure to electromagnetic fields becomes an actual concern.”²⁶ This is not a socio-economic distinction. Is it a distinction based on practicality and the actual nature and character of these particular wheeled trailers.

Staff’s prudent avoidance analysis is further flawed because it willfully ignores credible evidence bearing on *prudent avoidance* and improperly turns on pure *habitable structure count*.²⁷ Staff asserts that prudent avoidance must hinge solely on habitable structure count, because other features, like nature and character of structures, are not “given express consideration in the Commission’s rules.”²⁸ Staff suggests that it is improper for the “PFD [to] argue[] that the nature and purpose of the habitable structures should be taken into account, without citing to any provision in the rule to allow such or any prior guidance from the Commission that such a consideration would be advisable.”²⁹ Staff’s pure-count position is not supported by the Commission’s rules or precedent, is internally inconsistent, and must be rejected. Rather, the apparent mobility and purpose of these travel trailers in west Texas oil and gas fields must be considered, as the PFD correctly does here.³⁰

Staff improperly conflates habitable structure count with prudent avoidance. The PFD correctly defines the term “prudent avoidance” as the “limiting of exposure to electric and

²⁵ PFD at 34-35.

²⁶ *Id.*

²⁷ Commission Staff’s Exceptions to the Proposal for Decision at 6.

²⁸ *Id.* at 6.

²⁹ *Id.*

³⁰ PFD at 33-35 (accounting for the “nature and purpose of these habitable structures in west Texas oil and gas fields”).

magnetic fields that can be avoided with reasonable investment of money and effort.”³¹ Contrary to Staff’s suggestion, that definition does not set forth any specific factors that cannot be considered or must be considered.³² Staff’s contention that factors like the nature and character of structures, length of line, and distance to centerline cannot be considered in a prudent avoidance determination because they are not “given express consideration in the Commission’s rules” is inconsistent with their steadfast reliance on habitable structure count.³³ Although Staff is correct that these other factors are not expressly referenced in the definition of prudent avoidance, habitable structure count is not referenced either.

“*Exposure*” is the heart of a prudent avoidance assessment and is not to be confused with habitable structure count—a proxy of a proxy; there is more to consideration of habitable structures than a simple counting of structures.³⁴ While number of habitable structures affected by a proposed route is a factor to be considered, it does not equate to prudent avoidance as Staff contends.³⁵ The Commission must, and does, look at the individual facts of the case, and other

³¹ PFD at 33 (citing 16 TAC § 25.101(a)(6)).

³² 16 TAC § 25.101(a)(6)).

³³ See Commission Staff’s Exceptions to the Proposal for Decision at 6.

³⁴ 16 TAC § 25.101(a)(4); see Plains Pipeline Ex. 3 at 1 (*Application of Sharyland Utilities, L.P. to Amend a Certificate of Convenience and Necessity for the Stiles to Coates 138-kV Transmission Line in Reagan County*, Docket No. 46726, Memorandum from Chairman Walker at 1 (Sept. 27, 2017) (recommending striking Finding of Fact No. 104 from the proposal for decision, which had confused exposure with habitable structure count, and replacing it with finding that tracked prudent avoidance’s definition); Docket No. 46726, Order at 13 (Sept. 9, 2017) (adopting Finding of Fact No. 104 as recommended in the Chairman’s memorandum). See also Tr. at 67:11-22 (Perkins Cross) (confirming that “complying with the policy of prudent avoidance is more than just a pure habitable structure count”); Direct Testimony of Brenda Perkins, Oncor/AEPTX Ex. 7 at 11:12-2 (“My understanding of the Commission’s policy of prudent avoidance is that the process of routing a proposed transmission line should include consideration of routing options that will reasonably avoid population centers and other locations where people gather. This does not mean that a proposed transmission line must avoid habitable structures at all costs, but that reasonable alternatives should be considered.”); Direct Testimony of Russel J. Marusak, Oncor/AEPTX Ex. 5 at 10:16-26 (similar statement).

³⁵ 16 TAC § 25.101(a)(4); Plains Pipeline Ex. 3 at 1 (Chairman Walker memorandum in Docket No. 46726).

Commission precedent has indicated the specific nature of the structures at issue is important.³⁶ Further, as both Ms. Perkins and Mr. Marusak testified, the Commission's prudent avoidance policy "does not mean that a proposed transmission line must avoid habitable structures at all costs, but that *reasonable* alternatives should be considered."³⁷

Here, the PFD properly considers *exposure* and *reasonable* investments, which is the true heart of a prudent avoidance assessment.³⁸ Staff's pure-count position asks the Commission to assess prudent avoidance in a vacuum. This position must be rejected. Otherwise, the Commission risks setting a precedent of spending millions of extra dollars (specifically, \$1.6 million) to speculatively route transmission lines away from unfixed temporary trailers that are not intended to be, and cannot be, pinned down to any particular location. This is not sound policy. The ALJs' prudent avoidance analysis is sound and should remain unchanged.

II. REPLY TO EXCEPTIONS ON B2 MODIFICATION COST

A. The Link B2 Diagonal Modification Is Unlikely to Increase Cost.

In its exceptions, Oncor comments that the modification to link B2 that was adopted in the PFD is expected to "slightly increase project costs" rather than be cost neutral.³⁹ However, Oncor acknowledges that it did not conduct any formal evaluation of the impact on cost that

³⁶ See, e.g., *Application of LCRA TSC to Amend its CCN for the Proposed McCamey D to Kendall to Gillespie 345-kV CREZ Transmission Line in Schleicher, Sutton, Menard, Kimble, Mason, Gillespie, Kerr, and Kendall Counties*, Docket No. 38354, Final Order at FOF Nos. 30, 52, 124-126 (Jan. 24, 2011) (the Commission struck a balance between the community values of avoiding the Hill Country and avoiding habitable structures, and approved a transmission line route along I-10, even though that route was in the middle range of habitable structure count, and the Commission considered the character of the structures along that road, which included gas stations, convenience stores, fast-food restaurants, and car lots—all of which mainly see temporary visitors).

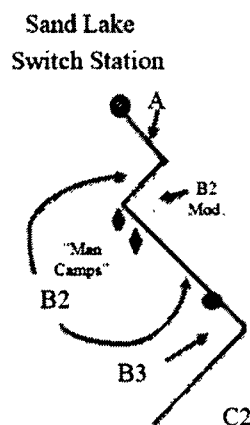
³⁷ Oncor/AEPTX Ex. 7 at 11:12-2 (Perkins Direct) (emphasis added); Oncor/AEPTX Ex. 5 at 10:16-26 (Marusak Direct) (similar statement); see 16 TAC § 25.101(a)(4).

³⁸ PFD at 33-35.

³⁹ Applicants' Exceptions to the Proposal for Decision at 2.

would result from link B2 modification.⁴⁰ As set forth below, there is support for the ALJ's conclusion that the modification will not increase project costs. Oncor's comment to the contrary is not supported by provided calculations, is not supported by record evidence, and contradicts its other cost estimates for nearly analogous modifications.⁴¹

Link B2 as proposed in application requires one 90-degree turning structure at the link's western corner, and is approximately 7,062 feet in length.⁴² Modified B2, as adopted in the PFD, cuts across the original link's western corner at a diagonal, so that it instead parallels the western side of the existing natural gas pipeline on Plains' property. Following the principle that the shortest distance between two points is straight line, modified B2 is approximately 5,908 feet in length—i.e., 1,154 feet shorter.⁴³ The PFD correctly states that the modification to link B2 will decrease overall length and require two approximately 45-degree turns.⁴⁴ A diagram of the B2 modification as adopted in the PFD is shown below.⁴⁵



⁴⁰ Applicants' Exceptions to the Proposal for Decision at 1.

⁴¹ See *id.* at 1-2.

⁴² See Oncor/AEPTX Ex. 10A.

⁴³ See *id.*; Plains' Response to Order No. 11 at 1-2 (partially depicting the modification); PFD at 8 (approximate depiction of the modification).

⁴⁴ PFD at 35.

⁴⁵ See *id.* at 8.

Although modified B2 requires one more turning structure than unmodified B2, the cost savings achieved from the reduced length will absorb the additional cost, if any, resulting from the substitution of two 45-degree turning structures for one 90-degree turning structure. This cost reduction is supported by similar corner-vs.-diagonal routing comparisons in the Application. For example, Route 320 utilizes a diagonal path and two approximately 45-degree turning structures to link two points.⁴⁶ Route 302 varies only in that it utilizes a corner path (that is 950 feet longer) and one 90-degree turning structure to connect the same two points.⁴⁷ The Applicants estimate the cost for Route 302 (corner) to be \$99,031,000, while the cost for Route 320 (diagonal) is \$98,220,000—which is \$811,000 less.⁴⁸

Here, the B2 diagonal modification in relation to the B2 corner presents nearly the same design considerations as the Route 320 diagonal in relation to the Route 302 corner. Similarly, the B2 diagonal modification reduces the length of line by approximately 1,154 feet.⁴⁹ Therefore, the B2 diagonal modification should cost less than the B2 corner.

Staff's exceptions requested a cost estimate of the B2 modification.⁵⁰ While the above analysis is not a formal evaluation of this particular modification, it utilizes the same assumptions that Applicants utilized to calculate the cost of similar modifications and alternative routes. When those same assumptions are applied here, the modification to link B2 should result

⁴⁶ See Oncor/AEPTX Ex. 1, Attach. 1 (App. D) at D-10; Oncor/AEPTX Ex. 10A.

⁴⁷ See Oncor/AEPTX Ex. 1, Attach. 1 (App. D) at D-9 to D-10; Oncor/AEPTX Ex. 10A.

⁴⁸ See, e.g., Oncor/AEPTX Ex. 1, Attach. 3 (exclusive of substation costs).

⁴⁹ See Oncor/AEPTX Ex. 10A.

⁵⁰ Commission Staff's Exceptions to the Proposal for Decision at 6.

in cost savings. Therefore, the PFD's assumption that the modification to link B2 should not increase cost is not only correct, but conservative, and should remain intact.

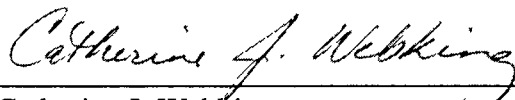
Further, even if Oncor is correct that the link B2 modification, while it does reduce habitable structure count, slightly adds to the total cost of Route 320, this additional cost will not come close to exceeding the cost of Route 41, which costs \$1.6 million more.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Plains requests that the Commission's Final Order adopts Findings of Fact and Conclusions of Law consistent with those set forth in the Administrative Law Judges' ("ALJs") Proposal for Decision ("PFD") and approve of one of the supported routes that utilizes links B2-B3, with link B2 modified as set forth in the PFD: either (1) Route 320 that the ALJs currently recommend for approval (with or without modification as proposed by Concho and Oxy), or (2) or Route 325 (with or without modification as proposed by Concho and Oxy).

Respectfully submitted,

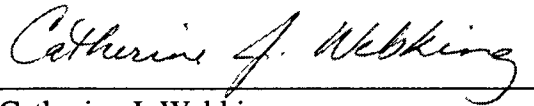
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PLAINS PIPELINE, L.P.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served in accordance with the governing procedural orders to all parties of record in this proceeding on May 6, 2019.

A handwritten signature in cursive script, reading "Catherine J. Webking", is written over a horizontal line.

Catherine J. Webking